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June 16, 1999

NOTICE OF EX PARTE PRESENTATION

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 - 12th Street, S.W., TW-A325  
Washington, DC 20554

Re: Wireless Consumers Alliance, Inc.  
Petition for Declaratory Ruling  
File No. WT 99-263

Dear Ms. Salas:

Transmitted electronically herewith for filing is a memorandum describing the *ex parte* meeting on June 15, 2000, between representatives of the Wireless Consumers Alliance, Inc. and staff members of the General Counsel's Office.

Very truly yours,

s/ Kenneth E. Hardman

Kenneth E. Hardman

Enclosure

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**EX PARTE MEMORANDUM**

**MEMORANDUM**

To: Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission

From: Kenneth E. Hardman

Date: June 16, 2000

Re: Petition of the Wireless Consumers Alliance, Inc.  
File No. WT 99-263

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Carl Hilliard, Patrick Daniels, Ronald Hoffman and Kenneth Hardman, representing the Wireless Consumers Alliance, Inc., met on June 15, 2000, with Joel Kaufman and David E. Horowitz of the General Counsel's Office to review recent court decisions bearing on the issues raised in the petition. The Alliance representatives expressed the view that the recent decision in *Ball v. GTE Mobilnet of California*, 00 C.D.O.S. 4523, issued June 8, 2000 (California Court of Appeal, Third Appellate District), appropriately distinguished between claims preempted by Section 332 of the Communications Act and claims that are not preempted and may be validly raised in state consumer protection litigation. The representatives further urged the Commission to establish a bright line ruling on the petition so as to provide as much guidance to the courts as possible. A significant portion of the discussion concerned illustrative examples of hypothetical claims that might intrude impermissibly into rate regulation preempted by Section 332 of the Communications Act, using the issues in the *Ball* and *Bastien* cases to illustrate pertinent distinctions.